

**New Shoreham Town Council Minutes
Wednesday, April 18, 2012
Town Hall, Old Town Road, Block Island**

7:00 p.m.

Present: First Warden Kimberley H. Gaffett, Second Warden Raymond J. Torrey, Town Councilors Peter B. Baute, Kenneth C. Lacoste and Richard P. Martin. Also present were Town Manager Nancy O. Dodge, Finance Director Amy Land, Attorney Katherine Merolla and Town Clerk Fiona Fitzpatrick, who took the minutes of the meeting.

Call to order: First Warden Gaffett called the meeting to order at 7:00 p.m.

Warden's Report: First Warden Kimberley H. Gaffett reported Recreation Director Rob Closter secured a \$75,000 grant from the RI DEM for bathrooms in Ball O'Brien Park. The area around Andy's Way was seeded with clams and will be closed to shellfishing for one week. The Presidential Preference Primary will be on Tuesday April 24; polls will be open at Town Hall from noon to 8:00 p.m. Voter ID cards will be issued at Town Hall on Thursday. Parking Permits will be sold by the DEM next Monday at the NSPD. The late Peter Lord's series "Saving Block Island" is on the Town's website. Second Warden Torrey reported on a meeting at the BI Airport with the three artist finalists and RI Council for the Arts coordinators.

Public Input: Kim Lafonso, who will be reopening the Surf, introduced herself and thanked the community for the warm welcome she has received.

1. Approve Warrant for Annual Financial Town Meeting

Financial Town Meeting will be May 7, 2012. The Town Manager noted the Warrant contains a question specific to this year: reallocating unexpended Town Hall Construction funds to dredge Old Harbor. No bonding authority is needed or included for Water and Sewer.

Mr. Torrey moved to adopt the Warrant for the May 7, 2012 Financial Town meeting, seconded by Dr. Baute.

Ayes: 5 (Gaffett, Torrey, Baute, Lacoste, Martin) Nays: 0

2. Receive and act on TNS Police Department monthly report: March

Mr. Martin moved, seconded by Mr. Lacoste, to accept the Police Department report for March.

Ayes: 5 (Gaffett, Torrey, Baute, Lacoste, Martin) Nays: 0

Dr. Baute asked that a meeting with the Police Chief be set up before the end of May.

3. Act on request to approve and proceed with HDC application re: reconstruction of Spring House Pump House

Architect Douglas Gilpin was present to answer questions about the Historic District Commission Final Review application for the construction of a Spring House Pump House replica. He prepared the application with a coalition of other volunteers. A discussion of the Town's cost to maintain the building ensued. Dr. Baute asked for assurance that, once started, the Town will not be asked for funds to complete the project. Mr. Gilpin said Scenic Block Island (SBI) is overseeing the project and construction will not begin until the Town is assured that all the funds have been raised. Dr. Baute suggested SBI set up an endowment fund for maintenance. Mr. Gilpin said the building was designed for minimal maintenance. He will encourage the committee to adopt a maintenance program and endowment.

First Warden Gaffett moved to authorize the Town Manager to sign Historic District Commission application with the understanding that the building project will not be started without further discussion, seconded by Mr. Torrey.

Ayes: 4 (Gaffett, Torrey, Lacoste, Martin) Nays: 1 (Baute)

4. Act on request to waive RI Housing "debt to income ratio and credit criteria" on pending Clean Water loan application re: J H Tripler/543 Center Rd., B.I.

Dr. Baute moved to approve the request to waive RI Housing "debt to income ratio and credit criteria" on pending Clean Water loan application of J H Tripler/543 Center Rd., B.I., seconded by Mr. Martin.

Ayes: 5 (Gaffett, Torrey, Baute, Lacoste, Martin) Nays: 0

5. Receive and act on Motor Vehicle for Hire Commission's recommendation re: vacant taxi license

Abra Savoie gave up her taxi license in February, and the Motor Vehicles for Hire Commission recommended the license be offered to Mark Emmanuelle, first on the taxi wait list.

Mr. Martin moved to grant a taxi license to Mark Emmanuelle, and to let Mr. Emmanuelle have the option of picking up the license in the current year or in license year beginning May 15, 2012, pending receipt of appropriate paperwork and fees, per the recommendation of the Motor Vehicles for Hire Commission. Motion was seconded by Mr. Torrey.

Ayes: 5 (Gaffett, Torrey, Baute, Lacoste, Martin) Nays: 0

6. Receive and act on John Kisseberth request to renewal of Hawkers & Peddlers license for H.J. Willy's

Dr. Baute moved to renew John Kisseberth's hawkers and peddlers license and to grant permission to use Town property at Plat 1, Lot 16 at the parking lot at the north end. Motion seconded by Mr. Torrey.

Ayes: 5 (Gaffett, Torrey, Baute, Lacoste, Martin) Nays: 0

Mr. Kisseberth and his daughter were present; she will be running the hot dog stand. The Council members discussed increasing the license fee or charging a fee for the use of the property next year.

7. Receive and act on Adrian Pearce's letter requesting permission to park his camper at Howarth residence, Southeast Rd., BI

Jessie Howarth was present for Mr. Pearce. The request is to bring the camper to the Island June 1, 2012 for repairs and store it out of sight on Fred and Debbie Howarth's property. A letter was received from the Howarths confirming permission. Ms. Howarth asked the Council to grant permission to bring the camper to the Island for an unlimited amount of time. The motor home needs repair and is for sale. Council members noted that Mr. Pearce is welcome to ask for an extension if his motor home has not sold by the end of the year.

Gaffett moves to grant Adrian Pearce permission to keep his motor home on Block Island until December 31, 2012 and pursuant to the conditions described in Mr. Pearce's letter, and that there be no human habitation in the trailer, seconded by Mr. Lacoste.

Ayes: 5 (Gaffett, Lacoste, Baute, Lacoste, Martin) Nays: 0

8. Act on letters from Washington County Regional Planning Council regarding Solar PPA's and Library Report

Discussion ensued.

- Dr. Baute suggested the Electric Utility Task Group could prepare parameters for solar PPA. The Council agreed the Town does not need the Washington County Regional Planning Council (WCRPC) to assist.
- The Town does not need the WCRPC to represent the Town before the PUC.
- The Town would like more information about net metering.

9. Boards, Committees and Commissions: act on appointments

- Harbors Committee

First Warden Gaffett moved, seconded by Second Warden Torrey, to appoint Michael Ballard to the Harbors Committee to fill Gary Hall's unexpired term which will end December, 2013.

Ayes: 5 (Gaffett, Lacoste, Baute, Lacoste, Martin) Nays: 0

- Sewer Commission and Water Board of Directors.

First Warden Gaffett said Cliff McGinnes' terms on the Water Commission and Sewer Commission expire in May and he has decided to retire. Tom Doyle currently serves on the Sewer Commission and has asked to be appointed to Water. Bradford Marthens serves on the Water Commission and has asked to be appointed to Sewer. Discussion ensued. Dr. Baute noted Mr. Doyle, who lives in New York City, has had difficulty attending meetings. He suggests asking Mr. Doyle if he will be able to attend more meetings. Ms. Gaffett said Mr. Doyle has made a commitment and believes he

has skills to offer the Water Commission. His appointment letter should include a suggestion that he contact the Council and ask to be made an alternate if he has continues to have trouble attending meetings. First Warden Gaffett suggested a way to rearrange the terms of Mr. Marthens, Mr. Doyle and Wayne Battey to arrange to have the terms on both boards end in 2017, 2014 and 2013 respectively. The boards will be staggered.

First Warden Gaffett moved to appoint Brad Marthens to the Sewer Commission to a term expiring in May, 2017; and to appoint Tom Doyle to the Water Commission to a term expiring in May, 2014; and to shift Mr. DoYLES' existing term on the Sewer Commission to expire in May, 2014; and shift Wayne Battey's terms on both boards to expire in May, 2013. The motion was seconded by Mr. Torrey.

Ayes: 5 (Gaffett, Lacoste, Baute, Lacoste, Martin) Nays: 0

Ms. Gaffett moved, seconded by Mr. Torrey, to reappoint Renwick "Pete" Tweedy and Steve Draper to one year alternate terms on the Water and Sewer Commissions.

Ayes: 5 (Gaffett, Lacoste, Baute, Lacoste, Martin) Nays: 0

- Tree Warden

First Warden Gaffett moved to appoint Ned Phillips, Jr. as Tree Warden, seconded by Mr. Torrey

Ayes: 5 (Gaffett, Lacoste, Baute, Lacoste, Martin) Nays: 0

- Receive and act on Janet Merritt letter of resignation from the Senior Advisory Committee

Ms. Gaffett moved to accept Janet Merritt's resignation from the Senior Advisory Committee with a letter of thanks, seconded by Mr. Lacoste.

Ayes: 5 (Gaffett, Lacoste, Baute, Lacoste, Martin) Nays: 0

- Announce current Board, Committee and Commission openings

First Warden Gaffett announced an opening on the Senior Advisory Committee.

10. Consider and act on resolutions supporting/opposing pending legislation:

- S 2158, H 7272 & H 7863 re: Teacher Layoff notice deadline

Dr. Baute moved to adopt a resolution in support of the bills. Motion seconded by Mr. Lacoste.

Ayes: 5 (Gaffett, Lacoste, Baute, Lacoste, Martin) Nays: 0

- Governor's Municipal Stability Package

Dr. Baute moved to support the Governor's Municipal Stability Package with a resolution of support, seconded by First Warden Gaffett.

Ayes: 5 (Gaffett, Lacoste, Baute, Lacoste, Martin) Nays: 0

- Proposed Senate Resolution supporting Property Assessed Clean Energy (PACE) programs

Ms. Gaffett reported Senator Sosnowski's resolution was read in the Senate; Council members will thank Senator Sosnowski for her support of the program.

- 7867 re: temporary reduction of building permit fees by 50%

First Warden Gaffett reported the Building Official estimates passage of the bill would result in a loss of approximately \$50,000 to the Town in building permit revenues.

Ms. Gaffett moved to send a letter opposing the bill, seconded by Mr. Torrey.

Ayes: 5 (Gaffett, Lacoste, Baute, Lacoste, Martin) Nays: 0

- S 2616 & H 7866 re: local planning authority on subdivision constraints "dry lands" bill.

Ms. Gaffett explained the Planning Board did not have a chance to act on the bills, but Planning Board members suggested the Town Council take a position in opposition to the "dry lands" bill because it erodes Towns' powers to control the density of development.

Ms. Gaffett moved to authorize a resolution in opposition to the “dry lands” bill, to be drafted from the Town Planner’s memorandum , noting the ability to control density in each town should be retained by the towns. Motion seconded by Mr. Lacoste.

Ayes: 5 (Gaffett, Lacoste, Baute, Lacoste, Martin)

Nays: 0

11. Set hearing dates:

- Application to Amend TNS Zoning Map and Chapter 7 of the TNS General Ordinances to add W. Penn property at Plat 18, Lot 66 (off Beacon Hill) to the Historic District

Ms. Gaffett moved to set a Public Hearing at 7:00 Monday, June 4, 2012 to hear the proposed amendment to the Zoning Map and Chapter 7 of the General Ordinances. Motion was seconded by Dr. Baute.

Ayes: 5 (Gaffett, Lacoste, Baute, Lacoste, Martin)

Nays: 0

- Wastewater Management N.O.V. regarding failure to replace OWTS at Plat 8, Lot 109 (J.T. Pinney)

Ms. Gaffett moved to set a Public Hearing at 7:00 Wednesday, May 30, 2012 to hear the proposed amendment to the Zoning Map and Chapter 7 of the General Ordinances. Motion was seconded by Mr. Martin.

Ayes: 5 (Gaffett, Lacoste, Baute, Lacoste, Martin)

Nays: 0

- Proposed amendment to TNS Ordinances Section 9-140 Shellfish Licenses re: renewal date.

First Warden Gaffett moved to set a Public Hearing at 7:00 Monday, June 4, 2012 to hear the proposed amendment to Chapter 9 of the General Ordinances. Motion was seconded by Dr. Baute.

Ayes: 5 (Gaffett, Lacoste, Baute, Lacoste, Martin)

Nays: 0

- Proposed amendment to TNS Ordinances re: Wardens Court fine increase

First Warden Gaffett moved to set a Public Hearing at 7:00 Monday, June 4, 2012 to hear the proposed amendment to the General Ordinances. Motion was seconded by Dr. Baute.

Ayes: 5 (Gaffett, Lacoste, Baute, Lacoste, Martin)

Nays: 0

- Proposed amendment to TNS Ordinances re: no alcohol (in open or closed containers) on Town beaches

First Warden Gaffett moved to set a Public Hearing at 7:00 Monday, June 4, 2012 to hear the proposed amendment to Chapter 10 of the General Ordinances. Motion was seconded by Dr. Baute.

Ayes: 5 (Gaffett, Lacoste, Baute, Lacoste, Martin)

Nays: 0

12. Correspondence: Cathy Payne notice of Zoning Board Public Hearing; BIPC Re: net metering program information; Chris Warfel re: Aquaculture/Harbor Management Plan
No action was needed or taken on the correspondence.

13. Minutes: March 21, 2012 open and closed, April 4, 2012 4:00 (open and closed) and 7:00
Mr. Martin moved to approve the minutes of March 21, 2012 open and closed, April 4, 2012 4:00 (open and closed) and 7:00, with changes noted seconded by Mr. Torrey.

Ayes: 5 (Gaffett, Lacoste, Baute, Lacoste, Martin)

Nays: 0

14. Block Island Land Trust request to the Town Council to issue bonds for the Land Trust for land acquisition (this discussion may be held in closed session pursuant to Rhode Island General Laws §42-46-5(a)(5) for sessions pertaining to acquisition of property for public purposes)

- Act on a resolution authorizing the issuance of general obligation bonds to finance land acquisition by the Block Island Land Trust

The discussion began in open session. Finance Director Amy Land and Block Island Land Trust (BILT) Attorney Joseph Priestley were present. Mr. Priestley explained the Land Trust has four

pending acquisitions. The BILT requests the Council to adopt a resolution authorizing the Town to issue general obligation bonds on behalf of the Block Island Land Trust in the amount \$2.364 million to acquire land for open space and preservation. The BILT has an existing bonding authority of \$6,050 million from Financial Town Meeting May 2, 2005. The Town's involvement is required in the Land Trust's enabling legislation. Execution of the loan resolution will allow the Town to take to take bonds to market, go through the bid pricing process, then close. Mr. Priestley explained two potential acquisitions had signed purchase and sales agreements, two did not. It is the Block Island Land Trust's policy to keep negotiations regarding acquisitions confidential until the transfers are complete.

Mr. Lacoste moved to enter closed session pursuant to Rhode Island General Laws §42-46-5(a)(5) for sessions pertaining to acquisition of property for public purposes, seconded by Mr. Martin.

Ayes: 5 (Gaffett, Lacoste, Baute, Lacoste, Martin) Nays: 0

The Town Council entered closed session with Finance Director Amy Land, BILT Counsel Joseph Priestley, Town Manager Nancy Dodge and the Town's Counsel Katherine Merolla and Town Clerk Fiona Fitzpatrick to take the minutes of the meeting.

Particulars of the Block Island Land Trust's potential acquisitions were discussed.

Dr. Baute moved to adopt a resolution authorizing the Town to issue general obligation bonds on behalf of the Block Island Land Trust in the amount \$2.364 million to acquire land for open space and preservation, seconded by Mr. Torrey.

Ayes: 5 (Gaffett, Torrey, Baute, Lacoste, Martin) Nays: 0

Dr. Baute moved to adjourn the closed session, seconded by Mr. Martin.

Ayes: 5 (Gaffett, Torrey, Baute, Lacoste, Martin) Nays: 0

First Warden Gaffett noted one motion was made during the closed session: Dr. Baute moved to adopt a resolution authorizing the Town to issue general obligation bonds on behalf of the Block Island Land Trust in the amount \$2.364 million to acquire land for open space and preservation, seconded by Mr. Torrey. She reported the motion passed unanimously.

15. Triangle Litigation and Transfer Station Litigation and a T. Mooney Open Meetings Act Complaint (discussion may be held in closed session pursuant to Rhode Island General Laws §42-46-5(a)(2) for sessions pertaining to litigation or pending litigation)

Attorney Merolla reported on the T. Mooney case in open session. Terry Mooney filed an Open Meetings Act complaint on December 20, 2011 in support of a previously submitted OMA complaint from Bruce Montgomery, alleging the agenda of the Town Council's October 3, 2011 agenda did not provide adequate notice of an item to be discussed, Cooneymus Road. On April 4, 2012 AG ruled on Mr. Montgomery's complaint and found there was no violation, the agenda was in compliance with OMA. Mr. Mooney was asked by Special Assistant AG Lisa Pinsonneault whether he wanted to go forward. He confirmed that he wanted his complaint to be heard separately. Ms. Merolla will respond to the complaint, and a ruling is anticipated within a few weeks.

Ms. Gaffett moved to enter closed session to discuss the Triangle Litigation and Transfer Station Litigation pursuant to Rhode Island General Laws §42-46-5(a)(2) for sessions pertaining to litigation or pending litigation. Motion was seconded by Mr. Torrey.

Ayes: 5 (Gaffett, Torrey, Baute, Lacoste, Martin) Nays: 0

At 9:24, a motion to adjourn the closed session and seal the minutes was made by Mr. Lacoste and seconded by Mr. Torrey.

Ayes: 5 (Gaffett, Torrey, Baute, Lacoste, Martin) Nays: 0

First Warden Gaffett noted no motions were made in the closed session pursuant to the Old Harbor Triangle and transfer station litigation.

At 9:25, a motion to adjourn was made by Mr. Martin and seconded by Mr. Torrey.

Ayes: 5 (Gaffett, Torrey, Baute, Lacoste, Martin) Nays: 0

Minutes approved June 4, 2012

Fiona Fitzpatrick, Town Clerk